Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

En Banc

PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee,	**CTA EB CRIM. No. 033** (CTA Crim. Case Nos. 0-071 & 0-085)
-versus-	Present: DEL ROSARIO, *P.J.*, CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, COTANGCO-MANALASTAS, and RINGPIS-LIBAN, *JJ.*
BIENVENIDO S. DIMSON, Accused-Appellant.	Promulgated: MAR 09 2016 9:45 a.m.

x- -x

RESOLUTION

CASANOVA, J.:

This resolves accused-appellant's Motion for Reconsideration[1] filed, *via* registered mail, on October 22, 2015, with plaintiff-appellee's Comment to Accused-Appellant's Motion for Reconsideration (of the Decision Dated September 21, 2015)[2] filed, thru registered mail, on February 9, 2016. Accused-appellant pray for this Court to reconsider its Decision[3] dated September 21, 2015, which affirmed the judgment of conviction of the Court of Tax Appeals—Third Division and, thus, issue a new one acquitting the accused-appellant Bienvenido S. Dimson of the charges against him.

The *fallo* of the Assailed Decision reads:

---

[1] *En Banc* Rollo, pp. 180-205.
[2] Ibid., pp. 242-248.
[3] Id., pp. 128-162.

"**WHEREFORE,** premises considered, the present Petition for Review is hereby **DENIED**, and accordingly, **DISMISSED** for lack of merit.

SO ORDERED."

In the subject Motion for Reconsideration, accused-appellant raised the following grounds for the resolution of this Court:

"I.

WITH ALL DUE RESPECT, THE HONORABLE COURT COMMITTED A REVERSIBLE ERROR IN DISMISSING THE PETITION AND AFFIRMING THE CTA THIRD DIVISION'S ASSAILED DECISION DATED JULY 2, 2014 AND THE ASSAILED RESOLUTION DATED NOVEMBER 12, 2014 AS DIMSON MANILA, INC. DID NOT ACTUALLY RECEIVE INCOME FROM THE JOINT VENTURE PROJECTS IT INTENDED TO PARTICIPATE IN; THUS, IT IS NOT LIABLE TO PAY INCOME TAX DEFICIENCIES.

II.

WITH ALL DUE RESPECT, THE HONORABLE COURT COMMITTED REVERSIBLE ERROR IN DISMISSING THE PETITION AND AFFIRMING THE DECISION OF THE CTA THIRD DIVISION BECAUSE THE PROSECUTION FAILED TO PROVE THE GUILT OF THE ACCUSED-APPELLANT BIENVENIDO S. DIMSON BEYOND REASONABLE DOUBT FOR VIOLATION OF SECTION 255 OF THE NIRC."

Accused-appellant avers that he was able to establish through the affidavits of his credible witnesses and Certifications issued by his joint venture partners that Dimson (Manila), Inc. did not actually receive income from the joint venture projects it intended to participate since his corporation was kicked out from the same due to lack of capitalization; that the circumstances of the instant case show that there is no intent on his part to evade and defeat the payment of tax since he merely complied with the requirement given by DPWH in renewing Dimson (Manila), Inc.'s annual accreditation as a construction contractor; that the computation of the alleged income tax deficiencies was highly doubtful and not consciously examined; that the glaring inconsistencies in the testimonies of the prosecution's witnesses ultimately break the strength of the prosecution evidence; and, that no BIR examiner went to the office of the accused-appellant to examine Dimson (Manila), Inc.'s records and documents.

By way of comment/opposition, plaintiff-appellee claims that the grounds relied upon by the accused-appellant are mere conclusion of the accused in his desperate move to reverse the Assailed Decision. Accordingly, the arguments of accused-appellant are mere rehash which have been squarely and intelligently passed upon by the Honorable Court; and, that the Court has wisely concluded that the prosecution was able to establish the guilt of the accused beyond reasonable doubt on the crimes charged.

The instant Motion for Reconsideration must fail.

Perusal of the arguments set forth in the subject Motion readily shows that they are a mere rehash, in fact, a quotation in verbatim, of the arguments raised by accused-appellant in his Verified Petition for Review[4] filed on December 1, 2014 and Memorandum for the Accused-Appellant[5] filed on April 28, 2015, which have been amply considered and passed upon in the Assailed Decision of the Court *En Banc*. Thus, we see no reason to depart, much less reconsider our ruling.

WHEREFORE, there being no compelling legal argument that will warrant the reversal of the Assailed Decision, accused-appellant's Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

(I maintain my Separate Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

---

[4] Id., pp. 1-26.
[5] Id., pp. 95-122.

J. C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice